PART IV

SECTION—1 B

CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 54 LCA 75.

Bangalore, dated 19th/20th August 1975.

Ordered that the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1975, published in Part II. Section 1 of the *Gazette of India*, Extraordinary, dated 1st August 1975 be re-published in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
Under Secretary to Government,
15 *Department of Law and Parliamentary Affairs.*

Assented to on ...-7-75. **Act No. 35 of 1975**

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ACT, 1975

AN

ACT

To amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1. (*1*) **Short title and commencement.**—This Act may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1975.

(2) It shall be deemed to have come in to force on the 1st day of July, 1975.

2. **Insertion of new section 5A**.—In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) (hereinafter referred to as the principal Act), after section 5, the following section shall be inserted namely :—

Grounds of detention severable.—"5A. Where a person has been detained in pursuance of an order of detention under sub-section (1) of section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(*a*) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(*i*) vague,

(*ii*) non-existent,

(*iii*) not relevant.

(*iv*) not connected or not proximately connected with such person, or

(*v*) invalid for any other reason whatsoever,

and it is not therefore possible to hold that the Government or officer making such order would have been satisfied as provided in sub-section (*1*) of section 3 with reference to the remaining ground or grounds and made the order of detention;

(*b*) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said sub-section (1) after being satisfied as provided in that sub-section with reference to the remaining ground or grounds."

3. **Amendment of section 12**.—In section 12 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely :—

"(*6*) Notwithstanding anything contained in any other law and save as otherwise provided in this section,

no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise."

4. **Insertion of new section 12A.**—After section 12 of the principal Act, the following section shall be inserted, namely :—

'**12A Special Provisions for dealing with emergency**—(*1*) Notwithstanding anything contained in this Act or any rules of natural justice, the provisions of this section shall have effect during the period of operation of the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution on the 3rd day of December, 1971, or the Proclamation of Emergency issued under that clause on the 25th day of June, 1975, or a period of twelve months from the 25th day of June, 1975, whichever period is the shortest.

(2) When making an order of detention under this Act against any person after the commencement of the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1975, the Central Government or the State Government or, as the case may be, the officer making the order of detention shall consider whether the detention of such person under this Act is necessary for dealing effectively with the emergency in respect of which the Proclamations referred to in sub section (*1*) have been issued (hereafter in this section referred to as the emergency) and if, on such consideration, the Central Government or the State Government or, as the case may be, the officer is satisfied that it is necessary to detain such person for effectively dealing with the emergency that Government or officer may make a declaration to that effect and communicate a copy of the declaration to the person concerned :

Provided that where such declaration is made by an officer, it shall be reviewed by the appropriate Government within fifteen days from the date of making of the declaration and such declaration shall cease to have effect

unless it is confirmed by that Government, after such review, within the said period of fifteen days.

(3) The question whether the detention of any person in respect of whom a declaration has been made under sub-section (2) continues to be necessary for effectively dealing with the emergency shall be reconsidered by the appropriate Government within four months from the date of such declaration and thereafter at intervals not exceeding four months, and if, on such reconsideration, it appears to the appropriate Government that the detention of the person is no longer necessary for effectively dealing with the emergency, that Government may revoke the declaration.

(4) In making any consideration, review or reconsideration under sub-section (2) or (3) the appropriate Government or officer may, if such Government or officers considers it to be against the public interest to do otherwise, act on the basis of the information and materials in its or his possession without disclosing the facts or giving an opportunity of making a representation to the person concerned.

(5) It shall not be necessary to disclose to any person detained under a detention order to which the provisions of sub-section (2 apply, the grounds on which the order has been made during the period the declaration made in respect of such person under that sub-section is in force, and, accordingly, such period shall not be taken into account for the purposes of sub-section (3) of section 3.

(6) In the case of every person detained under a detention order to which the provisions of sub-section (2) apply, being a person in respect of whom a declaration has been made thereunder, the period during which such declaration is in force shall not be taken into account for the purpose of computing—

(i) the periods specified in clauses (b) and (c) of section 8;

(*ii*) the periods of "one year" and "five weeks" specified in sub-section (1), the period of "one year"

specified in sub-section (2) (*b*) and the period of "six months" specified in sub-section (3), of section 9.'

5. Repeal and saving—(*1*) The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1975, (6 of 1975) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.